

Appl. No. : 10/796,692
Filed : March 9, 2004

REMARKS

In response to the Office Action mailed April 4, 2006, Applicants respectfully request the Examiner to reconsider the above-captioned Application in view of the foregoing amendment and the following remarks.

Summary of the Office Action

In the Office Action, the Examiner objected to the drawings and indicated that Figure 12 failed to show limitations recited in Claims 12 and 13. The Examiner also objected to the disclosure of the specification for various informalities. The Examiner also objected to Claims 1, 21, and 24 for other informalities and requested appropriate correction. Further, the Examiner rejected Claim 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner also rejected Claims 1-3, 14-16, 18, 19, 23, and 31 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,735,275 issued to Tsukahara et al. (hereinafter "Tsukahara"). Finally, the Examiner also rejected Claims 4-13 under 35 U.S.C. § 103(a) as being unpatentable over Tsukahara in view of U.S. Patent No. 5,431,429 issued to Lee (hereinafter "Lee").

Summary of the Amendment

Upon entry of the present Amendment, the Applicants will have amended Claims 1-2, 4, 7, 10-11, 13-17, 21, 23-25, 27, and 29-31. In addition, the Applicants will have canceled Claim 3 without prejudice or disclaimer. Further, the Applicants will have added new Claims 32-33. Therefore, Claims 1-2 and 4-33 currently remain pending in the application. Please note that in the amendments to the claims, deletions are indicated by strikethrough (e.g. ~~deletion~~) and additions to the claims are underlined (e.g. addition).

Traversal of Objection to Drawings under 37 C.F.R. § 1.83(a)

In the Office Action, the Examiner objected to Figure 12 of the drawings as not showing every feature of the invention specified in the claims. The Examiner specifically mentioned that the mount members are not shown in Figure 12 as being positioned at different elevations relative to each other, as recited in Claims 12 and 13. The Examiner based his objection on his

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perception that the limitations of Claims 12 and 13 appear to rely on Figure 12, and not Figure 10, where the mount members are positioned at different elevations.

The Applicants respectfully submit that the Examiner's objection to the drawings is misplaced, given that Claims 12 and 13 read on the embodiment shown in Figure 10. The Applicants respectfully submit that the embodiments illustrated in the drawings are made for illustrative purposes, and that Figure 10 adequately discloses the structure recited by Claims 12-13. The Applicants also refer the Examiner to paragraphs 139-143 of the Applicants' specification in which the mounting members, and the individual brackets into which the mounting members are interposed, are described as being positionable at any elevation. Therefore, the Applicants respectfully submit that the original drawings illustrate the limitations recited by Claims 12 and 13, and respectfully request that the Examiner withdraw his objection to the drawings.

In Re Objection to the Specification

In the Office Action, the Examiner also objected to two specific lines in the specification. The Examiner objected to the wording of line 7 of paragraph 5 and line 2 of paragraph 6.

In response to the Examiner's objection, the Applicants have duly amended line 7 of paragraph 5 to recite "needs to be." Further, the Applicants have also amended line 2 of paragraph 6 to use the word "comprising" instead of "comprises." The Applicants submit that such correction appropriately amends the specification as requested and therefore respectfully request that the Examiner withdraw his objection to the specification.

In Re Claim Objections

The Examiner also objected to Claims 1, 21, and 24 due to various informalities relating to the grammar used in the claims.

In response to the Examiner's objections, the Applicants have amended each of Claims 1, 21, and 24 to incorporate the Examiner's suggested changes. Specifically, the Applicants have amended line 5 of Claim 1 to recite "being spaced apart," line 2 of Claim 21 to recite "inclined outward and upward," and line 4 of Claim 24 to recite "one of the mount members." The Applicants respectfully submit that such amendments are appropriate as suggested by the

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Examiner, and therefore respectfully request that the Examiner withdraw his objection to Claims 1, 21, and 24.

Traversal of Rejection under 35 U.S.C. § 112, Second Paragraph

The Applicants respectfully traverse the Examiner's rejection of Claim 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. In the Office Action, the Examiner argued that the limitation in Claim 1 requiring that the retainers be placed on support members renders Claim 17 indefinite because it appears that the support members are the same as the retainers, as suggested on page 22, paragraph 116 of the Applicants' specification.

The Applicants respectfully disagree with this rejection and assert that Claim 17 is definite and distinctly claims subject matter that reads on an embodiment disclosed in Paragraphs 131-133 of the Applicants' specification. To the extent that the Examiner's rejection goes to whether Claim 17 is supported under 35 U.S.C. § 112, first paragraph, the Applicants submit that Paragraphs 131-133 clearly teach that the support members 332, 334 can be separate from and used in combination with the retainers (brackets) 370, 372. *See also* Applicants' Specification, Figure 10.

Furthermore, the Examiner has pointed to paragraph 116, which discusses an embodiment of the "suspension support members or suspension retainers 310, 312" (*see also* Figure 12) to apparently argue that any support member and any type of retainer are only taught as being the same. This argument is incorrect because the Specification teaches that the "suspension support members or suspension retainers" can be used without or in combination with the "retainers" apparently referred to by the Examiner. For example, according to one embodiment illustrated in Figure 12, the suspension support members 310, 312 may include apertures spaced apart vertically on the side surfaces 316 of the support members 310, 312 in order to support the mount members 328 and thereby position the suspension arms 318, 320 thereon. *See* Applicant's Specification, Paragraph 116-124. However, in another embodiment illustrated in Figure 10 and discussed in Paragraphs 131-133, the support members 332, 334 can be separate from and used in combination with the retainers (brackets) 370, 372.

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Therefore, the Applicants believe that Claim 17 is definite and is properly supported by the Applicants' disclosure and that Claim 17 and paragraphs 116 and 133 are unambiguous, thus satisfying all of the requirements of 35 U.S.C. § 112. Therefore, the Applicants respectfully request that the Examiner withdraw his rejection of Claim 17 under 35 U.S.C. § 112, second paragraph.

Traversal of Rejection under 35 U.S.C. § 102(b)

The Applicants respectfully traverse the Examiner's rejection of Claims 1-3, 14-16, 18, 19, 23, and 31 under 35 U.S.C. § 102(b) as being anticipated by Tsukahara. The Applicants respectfully submit that for the reasons discussed herein, these claims recite novel and distinct features that are not taught or disclosed in Tsukahara.

In Re Claim 1

As amended, Claim 1 is now directed to, *inter alia*, an off-road vehicle comprising a frame, two horizontal members, first and second sets of retainers, and first and second suspension arms. The retainers of the first set are spaced apart from each other fore to aft at a first distance, and the retainers of the second set are spaced apart from each other fore to aft at a second distance with the first and second distances being unequal. In this regard, the Applicants respectfully submit that Tsukahara fails to disclose at least the above-mentioned features of Claim 1.

As understood, Tsukahara discloses a vehicle frame having a dual wishbone suspension. The dual wishbone suspension utilizes two suspension arms that each have opposing ends which connect to a respective retaining element. Referring to Figures 3-5 of Tsukahara, the retaining elements (shown as elements 1, 2, 3, 4) are mounted to the frame along parallel horizontal members, illustrated as *Sf* and *Lf*. The retaining elements are apparently disposed in a rectangular configuration relative to one another wherein the distances between the retainers of upper and lower sets are equal. Tsukahara fails to disclose any alternative configuration of the retaining elements, especially that the distance between retainers of a first set can be different or unequal to the distance between retainers of a second set, as recited in amended Claim 1.

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Therefore, the Applicants respectfully submit that the first and second sets of retainers, which are respectively spaced at unequal distances from each other as recited in Claim 1, is not disclosed by Tsukahara. Therefore, because Tsukahara fails to disclose each and every feature of Claim 1, the Applicants respectfully submit that Tsukahara does not provide sufficient evidentiary basis to support a rejection of Claim 1 under Section 102(b). Thus, the Applicants respectfully request that the Examiner withdraw his rejection of Claim 1 under Section 102(b) and indicate that Claim 1 is allowable over the art of record.

Furthermore, the Applicants also respectfully request that the Examiner indicate that Claims 2 and 4-17 are also allowable for at least the reason that these claims depend from an allowable base claim.

In Re Claim 18

The Applicants also respectfully traverse the rejection of independent Claim 18 under Section 102(b) as being anticipated by Tsukahara.

Original Claim 18 is directed to, *inter alia*, an off-road vehicle comprising a frame, at least one wheel, and a suspension arm. The frame includes a set of vertical members that extend generally vertically and are spaced apart from each other fore to aft. The suspension arm is coupled to the vertical members in a manner permitting the suspension arm to swing relative to the frame. The Applicants respectfully submit that Tsukahara fails to disclose at least the above-mentioned features of Claim 18.

As discussed above, Tsukahara discloses the use of two sets of retaining elements (shown as elements 1, 2, 3, 4 in Figure 3) disposed in a substantially rectangular configuration relative to one another. As shown in Figures 3-5, upper retaining elements are vertically aligned with respective lower retaining elements, thus creating symmetry between the positioning of upper and lower suspension arms. However, the retaining elements of Tsukahara are simply individual brackets that are fixedly mounted to the frame at a given position. These brackets support only one end of only one suspension arm, instead of being able to support first ends of both upper and lower suspension arms, for example. Thus, Tsukahara apparently fails to disclose the vertical members recited in Claim 18. Tsukahara does not disclose that first and second vertical members can extend generally vertically, supported by the horizontal members, and being spaced

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apart horizontally fore to aft, as illustrated in exemplary embodiments shown in Figures 9 and 12 of the Applicant's specification.

Therefore, because Tsukahara fails to disclose each and every feature of Claim 18, the Applicants respectively submit that Tsukahara does not support a rejection of Claim 18 under Section 102(b). Therefore, the Applicants respectfully request that the Examiner withdraw his rejection of Claim 18 and indicate that it is allowable over the art of record

Furthermore, the Applicants also respectfully request that the Examiner withdraw the rejection of Claims 19-22 and indicate that these claims are allowable over the art of record for at least the reason that these claims depend from an allowable base claim.

In Re Claim 23

The Applicants also respectfully traverse the rejection of Claim 23 under Section 102(b) as being anticipated by Tsukahara.

As amended, independent Claim 23 is now directed to an off-road vehicle comprising, *inter alia*, a frame, first and second suspension arms, two horizontal members, and first and second sets of retainers being coupled to the horizontal members. Each end of the first and second suspension arms comprises a mount member that defines a pivot axis. Each of the retainers of the first set is configured to retain a respective mount member of the first suspension arm *with the pivot axes of the mount members thereof being oriented parallel and noncoaxial with respect to each other*. Similarly, the retainers of the second set are configured to retain a respective mount member of the second suspension arm *with the pivot axes of the mount members thereof being oriented parallel and noncoaxial with respect to each other*. The Applicants respectfully submit that Tsukahara fails to disclose at least the above-mentioned features of Claim 23.

As discussed above, Tsukahara discloses a dual wishbone suspension having four retaining elements in a substantially rectangular configuration. As best understood from Figures 1-3 and the disclosure of Tsukahara, each of the retaining elements provides pivotal movement for a respective end of the suspension arms about a respective pivot axis, and the pivot axes of the upper retaining elements (shown as elements 1, 2 in Figure 3) are axially aligned with each other, and the pivot axes of the lower retaining elements (shown as elements 3,

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4 in Figure 3) are axially aligned with each other. Tsukahara is completely devoid of any teaching related to a parallel, noncoaxial alignment of pivot axes of mount members of a first suspension arm and a parallel, noncoaxial alignment of pivot axes of mount members of a second suspension arm. Therefore, the Applicant respectfully submits that Tsukahara fails to disclose the "parallel and noncoaxial" feature as recited in Claim 23.

Therefore, because Tsukahara fails to disclose each and every limitation of Claim 23, Tsukahara cannot serve as a proper evidentiary basis to support a rejection of Claim 23 under Section 102(b). Therefore, the Applicants respectfully submit a request that the Examiner withdraw the rejection of Claim 23 under Section 102(b) and indicate that Claim 23 is allowable over the art of record.

Furthermore, the Applicants also respectfully request that Claims 25-31, which depend from Claim 23, also be indicated as allowable for at least the reason that these claims depend from an allowable base claim.

Traversal of Rejection under 35 U.S.C. § 103(a)

The Applicants also respectfully traverses the rejection of Claims 4-13 under Section 103(a) as being unpatentable over Tsukahara in view of Lee.

As discussed above, Claims 4-13 depend from independent Claim 1. For at least the reasons already mentioned, the Applicants respectfully submit that Tsukahara fails to disclose each and every limitation of Claim 1. Further, the Applicants respectfully submit that Lee fails to teach or suggest the above-mentioned limitations of Claim 1 that Tsukahara does not disclose. For example, Lee does not apparently teach that the first and second sets of retainers are oriented in a substantially planar parallelogram configuration. Therefore, because Tsukahara in combination with Lee fail to teach or disclose each and every limitation of Claim 1, the Applicants respectfully submit that Claim 1 is patentably distinct from these references and allowable over the art of record. Furthermore, because Claims 4-13 includes each of the features of allowable Claim 1, Claim 4-13 is also allowable over the art of the record.

Therefore, the Applicants respectfully request that the Examiner withdraw his rejection of Claims 4-13 under Section 103(a) and indicate that these claims are allowable over the art of the record.

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In re Amendments to Claims 2, 4, 7, 10-11, 13-17, 21, 24-25, 27, and 29-31

The Applicants note that Claims 2, 4, 7, 10-11, 13-17, 21, 24-25, 27, and 29-31 have also been amended in order to clarify these claims and to harmonize these claims in light of newly amended Claims 1 and 23. The Applicants respectfully submit that such amendments do not add new matter and that these claims are now in condition for allowance.

New Claims 32-33

The Applicants further submit Claims 32 and 33 for consideration. The Applicants respectfully submit that such amendments do not add new matter and do not necessitate additional searching. Claim 32 is believed to be patentably distinct from the applied art at least for the reason that the applied art does not show an off-road vehicle comprising a frame, two horizontal members, first and second sets of retainers, and first and second suspension arms wherein the retainers of the first set are spaced apart from each other fore to aft at a first distance, and the retainers of the second set are spaced apart from each other fore to aft at a second distance with the first and second distances being unequal. Further, Claim 33 is believed to be patentably distinct from the applied art at least for the reason that the applied art does not show an off-road vehicle comprising, *inter alia*, a frame, first and second suspension arms, two horizontal members, and first and second sets of retainers being coupled to the horizontal members wherein each end of the first and second suspension arms comprises a mount member that defines a pivot axis and wherein each of the retainers of the first set is configured to retain a respective mount member of the first suspension arm *with the pivot axes of the mount members thereof being oriented parallel and noncoaxial with respect to each other* and the retainers of the second set are configured to retain a respective mount member of the second suspension arm *with the pivot axes of the mount members thereof being oriented parallel and noncoaxial with respect to each other*. The Applicants believe that these claims are in condition for allowance and respectfully request that the Examiner indicate the same.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicants have not presented arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above. Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references, taking into account the disclosure in the applied references that teaches away from the combination made in the pending Office Action.

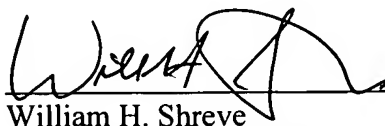
The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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